

**DATED** 11 JUNE **2021**

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**ARTICLES OF ASSOCIATION  
of  
QUANESCO TOPCO LIMITED  
(Company Number 13412177)**

**(Adopted by Special Resolution  
passed on 11 June 2021)**

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**MILLS & REEVE**

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**Company Number: 13412177**

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**of**  
**QUANESCO TOPCO LIMITED**  
**(Adopted on 11 June 2021)**

**1 Definitions and interpretation**

- 1.1 The model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles (the “**Model Articles**”) shall apply to the Company save as expressly excluded or modified by the these Articles or as are inconsistent with the provisions contained herein.
- 1.2 Model Articles 11, 13, 14, 21, 52 and 53 shall not apply to the Company and Model Article 44(2)(c) shall be amended by replacing "two or more persons" with "any person".
- 1.3 The Company is a private company and no shares or debentures of the Company may be offered to the public.
- 1.4 In these Articles, the following definitions apply:

“**Acquisition Agreement**” means the agreement relating to the acquisition by Quanesco Bidco Limited of the entire issued share capital of Anesco Holdings Limited to be entered into on the date of this agreement and to be made between (1) Alcentra European Direct Lending Fund II (Holding) SCSP and others and (2) Quanesco Bidco Limited.

“**Acting in Concert**” has the meaning ascribed to it by the City Code on Takeovers and Mergers as in force and construed at the date of adoption of these Articles.

“**Actual Entitlement**” means, in respect of partly Vested M Shares, the percentage of economic rights that have vested, determined in accordance with Article 7.3.3.

“**Articles**” means these articles of association as originally framed or as from time to time altered and the expression “**Article**” shall be construed accordingly.

“**A Shares**” means the A ordinary shares of £0.10 each in the capital of the Company.

“**Auditors**” means the auditors for the time being of the Company.

“**Available Profits**” means the profits available for distribution within the meaning of part 23 of the CA 2006.

“**Bad Leaver**” is a Leaver where the relevant Employee Beneficiary:

- (a) is materially in breach of the Investment Agreement, these Articles or any employment contract with a Group Company which, if capable of remedy, has not been remedied within 20 Business Days;
- (b) has committed any act of dishonesty or similar misconduct;
- (c) has been wilfully negligent in carrying out his role;
- (d) has committed any major criminal offence (other than motoring offences to which a non-custodial sentence is imposed);
- (e) has done or omitted to do anything which would be sufficient for the relevant Group Company to summarily dismiss him; or
- (f) has ceased to be employed by reason of any other circumstance where he is not a Good Leaver.

**"Board"** means the board of directors of the Company from time to time including the Investor Director(s) if any shall have been appointed or the Directors present at a duly convened quorate meeting of the Board.

**"Business Day(s)"** means a day (which for these purposes ends at 5.30pm) on which banks are open for commercial business in the City of London other than a Saturday or Sunday.

**"B Share"** means the B ordinary shares of £0.10 each in the capital of the Company.

**"Called Shareholders"** has the meaning given in Article 14.1.

**"Called Shares"** has the meaning given in Article 14.1.

**"Cashflow"** means the following cashflows to or from the Investor(s) from (and including) the date of the inflow or outflow of such cashflows up to (and including) the Relevant Date:

- (a) the Invested Capital; and
- (b) the Investor Return.

**"Chairman"** means the chairman of the Board appointed pursuant to Article 18.

**"Chairman's Interest"** has the meaning given to it in Article 22.5.1(ii).

**"Companies Acts"** has the meaning given by section 2 of the Companies Act 2006 and includes any enactment passed after that Act which may, by virtue of that or any other such enactment, be cited together with that Act as the "Companies Acts" (with or without the addition of an indication of the date of any such enactment).

**"Confidential Information"** has the meaning given to it in Article 22.3.2.

**"Connected Persons"** shall have the meaning provided by section 1122 of the Corporation Taxes Act 2010.

**"Controller"** means in relation to a corporate member a person who has the power or ability to direct the management or the policies of that member, whether through the ownership of voting capital, by contract or otherwise.

**“Controlling Interest”** in relation to a person means the ownership by that person and his or its Connected Persons of Shares carrying the right to more than 50 per cent of the total number of votes which may be cast on a poll at a general meeting of the Company.

**“Deed of Adherence”** means a deed of adherence in the form required by the Board including the Investor Director(s).

**“Deemed Transfer Notice”** means a notice to the Company pursuant to which all the Shares held by the relevant person are offered for transfer to the person and at the price set out in these Articles.

**“Director”** means any director of the Company for the time being.

**“Disposal”** means the sale or other disposal (whether by one transaction or a series of related transactions) of:

- (a) all or substantially all of the business and assets of the Group; or
- (b) 50% or more of the issued share capital of any immediate Subsidiary or Subsidiaries to the extent that it or they comprise all or substantially all of the business and assets of the Group.

**“EBT”** means a trust established to facilitate the holding of Shares by or for the benefit of all or most of the bona fide employees of one or more Group Companies.

**“Employee Beneficiary”** means any person (other than an Investor Director) holding legal and/or beneficial title to B shares and/or M Shares who is a director and/or an employee of any Group Company or whose services are made available to any Group Company under the terms of an agreement between any Group Company on the one hand and such individual or any other person on the other hand.

**“Equity Share Entitlement”** the aggregate entitlement of the holders of the Equity Shares to receive a percentage of:

- (a) a dividend paid in accordance with Article 3;
- (b) the assets of the Company on a return of capital on liquidation or capital reduction or otherwise (except in the case of the redemption of Shares of any class or the purchase by the Company of its own Shares) in accordance with Article 4;
- (c) the Exit Proceeds payable in respect of Shares on an Exit pursuant to Article 6,

(limbs (a), (b) and (c) being the **“Equity Return”**)

determined (where Equity Share Entitlement is required to be calculated on an Exit) by reference to the Investor MOIC achieved by the Investor(s) prior to and as a result of the Exit or (where Equity Share Entitlement is calculated in relation to payment of a dividend), by reference to the Investor MOIC achieved prior to and as a result of the payment of such dividend, in each case in accordance with the table below:

Investor MOIC	% Entitlement for Equity Shares
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0 to 1.99	100%
2 to 2.49	95%
2.5 to 3.24	92.5%
3.25 or more	90%

and provided always that the % Entitlement for Equity Shares as specified in the above table shall only apply to such amount of the Return as gives the Investor(s) the relevant Investor MOIC specified opposite that Entitlement for Equity Shares.

**"Equity Shares"** means the A Shares and the B Shares and any shares derived therefrom whether by conversion, consolidation or subdivision or by way of rights or bonus issue or otherwise for the time being in issue.

**"Exit"** means the earliest to occur of:

- (a) the date and time on which a Sale is completed;
- (b) the date and time at which a Listing takes place; or
- (c) the date and time at which a Disposal takes place.

**"Exit Notice"** has the meaning given in Article 14.2.

**"Exit Option"** has the meaning given in Article 14.1.

**"Exit Proceeds"** the aggregate amount that is payable either:

- (a) payable to the Members for their Shares by a buyer on completion of an Exit; or
- (b) payable to the Company or the respective Group company on completion of a Disposal.

**"Fair Value"** means the price payable for any Shares determined pursuant to Article 10.

**"Family Member"** means, in relation to any Member, any of his spouse (or widow or widower), civil partner (as defined in the Civil Partnerships Act 2004), children and grandchildren (including step and adopted children and grandchildren).

**"Family Trust"** means, in relation to a Member, a trust under which:

- (a) no immediate beneficial interest in the shares held by it or income from such shares is for the time being or may in the future be vested in any person other than the settler or a Family Member of such settler
- (b) no power or control over the voting powers conferred by the shares held by it is for the time being exercisable by or subject to the consent of any person other than the trustee or trustees or the settler or a Family Member of such settler.

**"Financial Year"** means a financial year or other period in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Act.

**“Fund”** has the meaning given in article 9.4.3.

**“Fund Participant”** means any bank, company, unit trust, investment trust, investment company, limited general or other partnership, industrial provident or friendly society, any collective investment scheme (as defined by the Financial Services and Markets Act 2000), any investment professional (as defined in article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion Order) 2005 (the **“FPO”**)), any high net worth company, unincorporated association or partnership (as defined in article 49(2) of the FPO) or any high value trust (as defined in article 49(6) of the FPO), any pension fund or insurance company or any person who is an authorised person under the Financial Services and Markets Act 2000 or local equivalent.

**“Good Leaver”** is a Leaver:

- (a) where the relevant Employee Beneficiary ceases to be employed by reason of:
  - (i) death, permanent incapacity or serious ill health (unless such illness was self-inflicted or as a result of alcohol or drug abuse); or
  - (ii) permanent retirement; or
  - (iii) dismissal by the Company (or other Group Company) which is determined, by an employment tribunal or a court of competent jurisdiction, to be wrongful;
- (b) where the Board (acting with Investor Consent) resolves that such person is to be categorised as a Good Leaver.

**“Group”** means the Company and its Subsidiaries from time to time and **“Group Company”** means any one of them.

**“Group Company Interest”** has the meaning given to it in Article 22.3.1.

**“holder”** in relation to Shares, means the member whose name is entered in the Register of Members as the holder of such Shares.

**“Invested Capital”** means the total amounts from time to time invested by the Investor(s) in the Company or any subsidiary including (unless the Investor(s) requires otherwise) any equity subscription or any loans or loan stock made including for the avoidance of doubt funds invested pursuant to the Investment Agreement or any subsequently invested.

**“Investment Agreement”** means the investment agreement dated the Investment Date and made between (1) the Company (2) the Managers (as defined therein) and (3) the Investor(s) as the same may be amended or supplemented from time to time.

**“Investment Date”** means 11 June 2021.

**“Investment Fund”** means any arrangement which for the time being is a collective investment scheme for the purpose of section 235 Financial Services and Markets Act 2000 or which would be such a scheme if it did not fall within an exemption or exclusion of that section.

**“Investor(s)”** has the meaning given to it in the Investment Agreement.



**“Investor Consent”** means the consent or approval of the Investor Director(s) (including any conditions to which such consent or approval is subject) given in writing or if no Investor Director(s) is/are appointed, the consent or approval of a majority of the Investor(s) (and any requirement for consent of the Investor(s), or any entitlement of the Investor(s) to exercise any rights under this agreement, shall be interpreted accordingly).

**“Investor Director Interest”** has the meaning given to it in Article 22.3.1.

**“Investor Director(s)”** means the director(s) appointed pursuant to Article 18 as the Investor Director(s).

**“Investor IRR”** means the internal rate of return which is the discount rate that makes the net present value of all Cashflows equal to zero in a discounted cash flow analysis, calculated using the Microsoft Excel XIRR function based on the date on which the relevant Cashflows occur.

**“Investor MOIC”** means the multiple calculated by the formula:

$$M = R/IC$$

where:

M = Investor MOIC

R = where:

- (i) the Investor MOIC is required to be calculated to determine the entitlement of the holders of the M Shares on an Exit, the Investor's Return prior to and as a result of such Exit; or
- (ii) where the Investor MOIC is required to be calculated to determine the entitlement of the holders of the M Shares in relation to the payment of a dividend, the Investor's Return prior to and as a result of the payment of the proposed dividend; and

IC = the amount of Invested Capital;

**“Investor Return”** means the aggregate of all returns paid (or to be paid as a result of an Exit and/or a proposed dividend) to the Investor(s) on or prior to the Relevant Date in respect of its holding of Equity Shares from time to time (whether paid as dividends, distributions, return of capital, proceeds (including repayment of capital and interest) from any debt funding provided by the Investor(s) or any person connected with the Investor(s) (which shall include such persons as the Investor(s) may make permitted transfers to pursuant to article 9.4) (if the Investor(s) requires the same to be included for the purpose of this definition) and proceeds of sale excluding any contingent consideration and/or unquantified consideration provided that, on each occasion on which any contingent and/or unquantified consideration disregarded in such definition shall in fact be received, the provisions of these Articles shall be reopened and reapplied treating that late receipt as a non-contingent deferred consideration under this definition provided always that no value already allocated shall be reallocated and this provision shall serve only to allocate the additional consideration later received) and provided always that any monitoring fees or similar paid to the Investor(s) pursuant to the Investment Agreement shall not be included for the purpose of calculating the Investor Return.

**"Issue Price"** means the amount paid up or credited as paid up (including any premium on issue) on a Share.

**"Leaver"** means:

- (a) any Employee Beneficiary who is at the date of adoption of these Articles, or who later becomes, an employee and/or director or consultant of, or provides any services to the Company or any other Group Company and who subsequently ceases to be so employed or engaged and does not continue in any such capacity for any reason whatsoever (including death, bankruptcy or as a result of a Group Company ceasing to be a Subsidiary of the Company);
- (b) (if required by the Board pursuant to Article 12.6) any Member who is the nominee of any person referred to in (a) above in respect of the Shares held on behalf of such person;
- (c) any Member who is (or is the nominee of) a Family Member or Family Trust of any person referred to in (a) above; and
- (d) any person who becomes entitled to any Shares:
  - (i) following the death of a Member;
  - (ii) following the bankruptcy of a Member.

**"Leaving Date"** means:

- (a) in relation to any Employee Beneficiary who ceases to be an employee and/or director or consultant of any Group Company or a nominee, Family Member or Family Trust of such person, the Termination Date; and
- (b) in relation to person who acquires share following the death or bankruptcy of Member, the date such person first acquired any Shares.

**"Leaver's Shares"** in relation to a Leaver means such title to all Shares as is held by:

- (a) the Leaver in question; and
- (b) any Permitted Transferee of that Leaver (other than those Shares held by those persons that the Investor(s) declares itself satisfied were not acquired directly or indirectly from the Leaver or by reason of his/her relationship with the Leaver), and

and including any Shares acquired by any such person after the relevant Deemed Transfer Notice is deemed given but before completion of the transfer of such Shares pursuant to the Deemed Transfer Notice.

**"Listing"** means the unconditional granting of permission for any of the Equity Shares (or any Ordinary Shares arising on conversion) to be dealt in on any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000).

**"Majority Seller"** has the meaning given in Article 14.1.

**"Majority Seller's Shares"** has the meaning given in Article 14.1.

**"Member"** means a person for the time being registered in the Register of Members as the holder of any Shares.

**"Member of the Same Group"** means, in relation to a body corporate, any other body corporate which is for the time being a holding company of that body corporate or a Subsidiary of that body corporate or a Subsidiary of any holding company of which that body corporate is also a Subsidiary.

**"Minimum Transfer Conditions"** means whether or not the offer for transfer is conditional upon all or part only of the Share comprised in the Deemed Transfer Notice having been sold;

**"M Shares"** means the M ordinary shares of £0.01 each in the capital of the Company.

**"M Share Entitlement"** the aggregate entitlement of the holders of the M Shares comprising the M Share Pool (assuming always that every M Share in the M Share Pool is fully Vested) to receive a percentage of:

- (a) a dividend paid in accordance with Article 3;
- (b) the assets of the Company on a return of capital on liquidation or capital reduction or otherwise (except in the case of the redemption of Shares of any class or the purchase by the Company of its own Shares) in accordance with Article 4;
- (c) the Exit Proceeds payable in respect of Shares on an Exit pursuant to Article 6,

(limbs (a), (b) and (c) being the **"M Return"**)

determined (where M Share Entitlement is required to be calculated on an Exit) by reference to the Investor MOIC achieved by the Investor(s) prior to and as a result of the Exit or (where M Share Entitlement is calculated in relation to payment of a dividend), by reference to the Investor MOIC achieved prior to and as a result of the payment of such dividend, in each case in accordance with the table below:

<b>Investor MOIC</b>	<b>% Entitlement for M Shares</b>
0 to 1.99	0
2 to 2.49	5%
2.5 to 3.24	7.5%
3.25 or more	10%

and provided always that the % Entitlement for M Shares as specified in the above table shall only apply to such amount of the M Return as gives the Investor(s) the relevant Investor MOIC specified opposite that Entitlement for M Shares.

**"M Share Pool"** means the 1000 M Shares.

**"Nominee"** has the meaning given to it in the Investment Agreement.

**"Offer"** has the meaning give to it in Article 13.3.

**"Permitted Transfer"** means a transfer of Shares permitted by Article 9.

**"Permitted Transferee"** means those person to whom a Permitted Transfer may be made.

**"Proposed Transfer"** has the meaning given in Article 13.1.

**"Relevant Date"** means the date at which the Investor's Return is required to be calculated;

**"Relevant Investor"** has the meaning given to it in Article 22.3.1(i).

**"Reserved Shares"** has the meaning set out in the Investment Agreement.

**"Sale"** means the acceptance of an offer or the making of an agreement which upon the satisfaction of the conditions (if any) of such offer or agreement results in result in any person, together with any person Acting in Concert with them acquiring a Controlling Interest (other than by way of a Permitted Transfer or by way of a transfer pursuant to articles 11 or 12).

**"Sale Price"** means:

- (a) in respect of a transfer pursuant to article 11, the Fair Value; and
- (b) in respect of a Deemed Transfer Notice in respect of a Leaver's shares, the price determined in accordance with article 12.3.1.

**"Selling Shareholder"** has the meaning given to it in Article 13.1.

**"Share(s)"** means shares in the capital of the Company of any class from time to time.

**"Situational Conflict"** means a direct or indirect interest of a Director which conflicts or may potentially conflict with the interests of the Company (other than a Transactional Conflict or in circumstances which cannot reasonably be regarded as likely to give rise to a conflict of interest). For these purposes, a conflict of interests shall include a conflict of interest and duty and a conflict of duties.

**"Subsidiary"** means a subsidiary as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsection 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee.

**"Tag Offer Notice"** has the meaning give to it in Article 13.4.

**"Termination Date"** means in relation to an Employee Beneficiary:

- (a) where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;
- (b) where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;
- (c) where an Employee Beneficiary dies, the date of his death;

- (d) where the Employee Beneficiary concerned is a director but not an employee, the date on which his service agreement (or other terms of appointment) with the relevant Group Company is terminated; or
- (e) in any other case, the date on which the employment or holding of office is terminated.

**"Third Party Purchaser"** has the meaning given in Article 13.1.

**"Transactional Conflict"** means a direct or indirect conflict of interest of a Director which arises in relation to an existing or proposed transaction or arrangement with the Company.

**"Valuers"** means the Auditors or, if the Auditors decline an instruction to report on Fair Value, then the Valuers for the purpose of that report shall be a firm of chartered accountants agreed between the Vendor and the Board (with Investor Consent) or, in default of agreement within 20 Business Days after the event referred to in (a) or (b) above, appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of the Vendor or the Board.

**"Vendor"** means the person whose Shares are the subject of the Deemed Transfer Notice.

**"Vested"** means in relation to the M Shares, shares which in accordance with these Articles have accrued the right to participate in the economic benefits attaching to the M Shares and **"partly Vested"** refers to shares that in accordance with these Articles have acquired a proportion of the economic entitlement that would otherwise attach to such M Share when it becomes fully Vested.

**"Wholly-owned Group"** means a body corporate and any holding company of which it is a wholly-owned subsidiary and any other wholly-owned subsidiaries of that holding company (including any wholly-owned subsidiary of the body corporate) with all such terms construed in accordance with the Companies Acts.

#### 1.5 In these Articles, where the context admits:

- 1.5.1 words and phrases which are defined or referred to in or for the purposes of the Companies Acts have the same meanings in these Articles unless they are already defined within the Articles or the context otherwise requires;
- 1.5.2 references to statutes or statutory provisions and orders or regulations made thereunder include that statute, provision, order or regulation as amended, modified, re-enacted or replaced from time to time before the date hereof and to any previous statute, statutory provision, order or regulation amended, modified, re-enacted or replaced by such statute, provision, order or regulation;
- 1.5.3 reference to a gender includes the other gender, and reference to the singular includes the plural and vice versa; and
- 1.5.4 headings are for ease of reference only and shall not affect the construction or interpretation of these Articles.

## **2 Share capital**

The share capital of the Company at the date of the adoption of these Articles is £6,575,255.85 divided into:

- 2.1 65,376,248 A Shares;
- 2.2 376,250 B Shares; and
- 2.3 605 M Shares.

## **SHARE RIGHTS**

### **3 Dividends**

- 3.1 In respect of any Financial Year, the Available Profits of the Company may be used to pay dividends as set out in this Article 3.
- 3.2 Subject to (i) the Board recommending payment of the same and (ii) Investor Consent, the Available Profits shall be distributed as follows:
  - 3.2.1 if the Investor IRR on the date of such dividend is lower than 15%, to the holders of the Equity Shares pro rata to the nominal value of the Equity Shares held (as if they constituted the same class of Shares) as compared to the nominal value of total number of Equity Shares in issue and the M Shares shall not be entitled to receive any of the distribution;
  - 3.2.2 if the Investor IRR is 15% or more on the date of such dividend:
    - (i) each holder of Equity Shares shall be entitled to receive the Equity Share Entitlement in relation to the proposed distribution pro rata to the nominal value of the Equity Shares held by such holder of Equity Shares (as if they constituted the same class of Shares) as compared to the nominal value of total number of Equity Shares in issue;
    - (ii) each holder of the M Shares that are fully Vested shall be entitled to receive the M Share Entitlement in relation to the proposed distribution pro rata to the nominal value of M Shares held by such holder of M Shares as compared to the nominal value of total number of M Shares in issue;
    - (iii) each holder of the M Shares that are partly Vested shall be entitled to receive their Actual Entitlement of the M Share Entitlement in relation to the proposed distribution pro rata to the nominal value of M Shares held by such holder of M Shares as compared to the nominal value of total number of M Shares in issue;
    - (iv) the balance of the M Share Entitlement remaining after the distribution made pursuant to Articles 3.2.2(ii) and 3.2.2(iii) shall be allocated as between the holders of M Shares as the Board (acting with Investor Consent) resolves.
- 3.3 Subject to the Act, the Directors may pay interim dividends provided that:

- 3.3.1 the Available Profits of the Company justify the payment; and
- 3.3.2 the Company obtains Investor Consent to any such interim dividend.
- 3.4 The Company shall procure (so far as it is able) that each of its subsidiaries and each of its subsidiary undertakings which has profits available for distribution shall from time to time declare and pay to the Company (or, as the case may be, the relevant Group Company that its immediate holding company or parent undertaking) such dividends as are necessary to permit lawful payment by the Company of any dividend.
- 3.5 Notwithstanding any other provision of this article 3, no dividend may be paid to the Company in respect of any Shares held in treasury.

#### **4 Capital**

- 4.1 On a return of capital on liquidation or capital reduction or otherwise (except in the case of the redemption of Shares of any class or the purchase by the Company of its own Shares or any share capital reorganisation in which no proceeds are returned to the shareholders of the Company), the surplus assets of the Company remaining after the payment of its liabilities shall be applied (to the extent that the Company is able to do so) in the following manner and order of priority:
  - 4.1.1 if the Investor IRR on the date of such event is lower than 15%:
    - (i) the holders of the Equity Shares shall be entitled to receive all such surplus assets pro rata to the nominal value of the Equity Shares held by such holder of Equity Shares (as if they constituted the same class of Shares) as compared to the nominal value of total number of Equity Shares in issue;
    - (ii) the holders of M Shares (whether Vested, partly-Vested or un-Vested) shall not be entitled to receive any such surplus assets;
  - 4.1.2 if the Investor IRR is 15% or more on the date of such event:
    - (i) each holder of Equity Shares shall be entitled to receive the Equity Share Entitlement pro rata to the nominal value of the Equity Shares held by such holder of Equity Shares (as if they constituted the same class of Shares) as compared to the nominal value of total number of Equity Shares in issue;
    - (ii) each holder of the M Shares that are fully Vested shall be entitled to receive the M Share Entitlement pro rata to the nominal value of M Shares held by such holder of M Shares as compared to the nominal value of total number of M Shares in issue;
    - (iii) each holder of the M Shares that are partly Vested shall be entitled to receive their Actual Entitlement of the M Share Entitlement pro rata to the nominal value of M Shares held by such holder of M Shares as compared to the nominal value of total number of M Shares in issue;
    - (iv) the balance of the M Share Entitlement remaining after the application of Articles 4.1.2(ii) and 4.1.2(iii) shall be allocated as

between the holders of M Shares as the Board (acting with Investor Consent) resolves.

## **5 Voting**

5.1 Subject to Article 12.2.4, the voting rights attaching to each class of Share shall be as follows:

5.1.1 on a written resolution, every Member holding one or more A Shares or B Shares on the date on which the resolution is circulated shall (save as otherwise provided in the Companies Acts) have one vote for each A Share and each B Share held by him;

5.1.2 at a general meeting of the Company, every Member holding one or more A Shares or B Shares who (being individual) is present in person or by proxy or (being a corporation) is present by duly authorised representatives or by proxy shall:

(i) on a show of hands have one vote; and

(ii) on a poll have one vote for each A Share and/or B Share of which he is the holder;

save that:

5.1.3 on a resolution under section 168 of the Companies Act 2006 for the removal of an Investor Director, the A Shares shall have in aggregate twice the number of votes carried by all the other Shares, apportioned *pro rata* as nearly as practicable among the Members holding A Shares; and

5.1.4 if the holders of A Shares hold less than 75% but more than 50% of the voting rights attaching to the entire issued share capital of the Company, then the A Shares shall have such number votes as entitle them to exercise 75% of the votes attaching to all Shares, apportioned *pro rata* as nearly as practicable among the Members holding A Shares.

5.2 Members holding M Shares shall not be entitled to receive notice of, attend, speak or vote at any general meeting of the Company.

## **6 Proceeds of Exit**

6.1 Upon a Sale, the members who sell their shares in such Sale will be entitled to share in the proceeds of the Sale in the manner and order of priority set out in Article 4.1.

6.2 Upon a Disposal, the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in Article 4.1 provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the members shall take any action required by the Investor(s) (including actions that may be necessary to put the Company into voluntary liquidation) to achieve a distribution in the manner and order of priority set out in Article 4.1.

6.3 Immediately prior to a Listing the Company shall issue to each holder of A Shares, B Shares and M Shares, by way of automatic capitalisation of reserves, such number (if any) of ordinary shares in the capital of the Company which shall result in that holder



holding, when aggregated with his existing shareholding (and following the completion of all such issues and the conversion of all A Shares, B Shares and M Shares into ordinary shares), the same proportion of ordinary shares in the Company in issue as the proportion that his entitlement to the surplus assets of the Company under article 4 bears to the total of the surplus assets available for distribution to the Members under article 4.

- 6.4 The ordinary Shares to be allotted under this Article 6 shall be paid up by the automatic capitalisation of any amount standing to the credit of the share premium account or any other available reserve of the Company as determined by the directors. The capitalisation shall not require any action on the part of the members and the directors shall allot the ordinary shares arising on the capitalisation to the members entitled to them in accordance with this Article 6.
- 6.5 If the Company is not permitted to carry out the capitalisation under the Companies Acts or other applicable law, the holders of the A Shares, B Shares and M Shares shall be entitled to subscribe at par in each case for that number of additional ordinary shares as would otherwise have been issued pursuant to Article 6. The Members shall procure (so far as they are lawfully able) that the Directors shall have sufficient authority to issue the ordinary Shares which may fall to be issued under article 6.3 or this article 6.5.
- 6.6 In the event of an Exit approved by the Directors (acting with Investor Consent) ("**Proposed Exit**"), all Members shall consent to, vote for, raise no objections to and subject always to the provisions of article 21 (when such provisions are applicable) waive any applicable rights in connection with the Proposed Exit. The Members shall be required to take all lawful actions with respect to the Proposed Exit as are reasonably required by the Directors to facilitate the Proposed Exit. If any Member fails to comply with the provisions of this article 6.6:
- 6.6.1 the Company shall be constituted agent and attorney of each defaulting Member for taking such actions as are necessary to effect the Proposed Exit;
- 6.6.2 the Directors may authorise an officer of the Company or a Shareholder to execute and deliver on behalf of such defaulting Member all or any necessary documents; and
- 6.6.3 the Company may receive any purchase money due to the defaulting Member (without any obligation to pay interest).
- 6.7 Notwithstanding the preceding provisions on this Article 6, any M Shares that are purchased by the Company and either cancelled or held in treasury they shall not entitle the holder to receive any amounts upon an Exit.

## **7 Vesting**

- 7.1 This Article 7 shall apply to the extent that it is necessary to calculate the entitlement of the holder of fully, partly or un-Vested M Shares to receive any proportion of any surplus assets or sale proceeds that may become available for distribution in accordance with these Articles on either an Exit or a return of capital.
- 7.2 The rights of a holder of M Shares to receive any proportion of any surplus assets or sale proceeds that may become available for distribution in accordance with these Articles on either an Exit or a return of capital shall be restricted such that the holder

of such M Shares is only entitled to such economic benefit if the M Shares are fully Vested.

### 7.3 Vesting of rights in M Shares may occur as follows:

- 7.3.1 in respect of any M Shares held by or on behalf of an Employee Beneficiary or a former Employee Beneficiary on the date of an Exit or on the date of a return of capital, such M Shares shall be considered fully Vested on that date;
- 7.3.2 on the date of the declaration of any dividend by the Company, M Shares which are un-Vested and are held by or on behalf of an Employee Beneficiary or a former Employee Beneficiary on the date the dividend is declared, shall be considered fully Vested for the purposes of the payment of that dividend only;
- 7.3.3 in respect of any M Shares held by or on behalf of an Employee Beneficiary prior to the date of an Exit and who is a Good Leaver, the extent to which their M Shares will be Vested will be determined by how long they had held (directly or via a nominee) their M Shares on the Termination Date as follows:
  - (i) if the Termination Date falls prior to the first anniversary of the date of the allotment or transfer of such M Shares to that Employee Beneficiary (directly or via a nominee) ("**Allotment Date**"), such M Shares shall be entirely un-Vested;
  - (ii) if the Termination Date falls on or after the first anniversary of the Allotment Date but before the second anniversary of the Allotment Date, 25% of such M Shares shall be considered Vested;
  - (iii) if the Termination Date falls on or after the second anniversary of the Allotment Date but before the third anniversary of the Allotment Date, 50% of such M Shares shall be considered Vested;
  - (iv) if the Termination Date falls on or after the third anniversary of the Allotment Date, 75% of such M Shares shall be considered Vested.

### 7.4 To the extent that value is attributed to M Shares that are partly Vested pursuant to article 7.3.3, such value shall, for the sole purpose of determining the aggregate value attributed to each such M Shares as held by a particular Shareholder, be attributed equally between all M Shares held by such Shareholder and save where otherwise expressly provided in these Articles no value shall be attributed to M Shares held by such Shareholder to the extent that they are not Vested.

## 8 Issue of Shares

- 8.1 The Directors shall not, save with investor Consent, exercise any power to allot Shares or to grant rights to subscribe for, or convert any security into, any Shares.
- 8.2 Subject to Articles 8.1, 8.4 and 8.6, any new Shares to be issued from time to time shall be offered first to the holders of the Equity Shares in proportion (as nearly as may

be) to the nominal amount of their existing holdings of the Equity Shares. The offer shall:

- 8.2.1 be made by notice specifying the number and class of Shares offered, the price per Share and a time (not being less than 10 Business Days or greater than 15 Business Days) within which the offer if not accepted will be deemed to be declined; and
- 8.2.2 if required by the Investor(s), will be conditional on the other holders of Equity Shares subscribing for other securities in the Company or any other Group Company (including, for the avoidance of doubt loan notes or other debt instruments) on the same terms as the Investor(s) and on the same basis as the subscription for shares this Article.
- 8.3 After the expiration of the time for accepting the offer, or on the receipt of an indication from the person(s) to whom the offer is made that he/they decline(s) to accept the Shares offered or any of them, the Board shall offer the Shares declined in the like manner (save that the minimum period for acceptance may be five Business Days and the maximum 10 Business Days) to the other holders of Equity Shares who have agreed to invest in all the Shares offered to them in proportion (as nearly as may be) to the nominal amount of their existing holdings of Shares (of whatever class). If the Shares comprised in such further offer are declined or deemed to be declined the further offer shall be withdrawn.
- 8.4 If all or any of the Shares to which Article 8.2 applies are not taken up in accordance with the provisions of Article 8.2, the Board may offer such Shares to a third party (with Investor Consent) and subject to these Articles and the provisions of sections 549 and 551 of the Companies Act 2006 such Shares shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that:
  - 8.4.1 no Shares shall be issued at a discount;
  - 8.4.2 no Shares to which Article 8.2 applies shall be issued more than 60 Business Days after the expiry of the period for acceptance to the last offer of such Shares made under Article 8.2 unless the procedure set out in Article 8.2 is repeated in respect of such Shares; and
  - 8.4.3 no Shares shall be issued at a price less than that at which they were offered to the Members in accordance with Article 8.2 and so that (if the Board are proposing to issue such Shares wholly or partly for non-cash consideration) the cash value of such consideration for the purposes of this Article 8.4.3 shall be as reasonably determined by the Auditors whose determination shall be final and binding on the Company and each of the Members.
- 8.5 The provisions of Articles 8.2 and 8.4 shall apply *mutatis mutandis* to all equity securities (as defined in section 560(1) of the Companies Act 2006) of the Company from time to time created.
- 8.6 The provisions of Articles 8.2 and 8.4 shall not apply:
  - 8.6.1 to the issue of up to 395 additional M Shares pursuant to clause 3.3 of the Investment Agreement;

- 8.6.2 to the issue of Shares to the Investor(s), provided always that each holder of B Shares shall have the right to subscribe for such number of B Shares with 30 Business Days of the issue to the Investor(s) as is required for that holder of B Shares to maintain the proportion of equity they held prior to such issue of Shares to the Investor(s);
  - 8.6.3 to the issue of shares as all or part of the consideration for the acquisition of any business or body corporate;
  - 8.6.4 to the issue of shares to a third party debt provider providing debt finance to any group Company; or
  - 8.6.5 securities issued to third party non-affiliated investors as part of a co-investment process provided always that each holder of B Shares shall have the right to subscribe for such number of B Shares with 30 Business Days of the issue to the Investor(s) as is required for that holder of B Shares to maintain the proportion of equity they held prior to such issue of Shares to the Investor(s).
- 8.7 Section 561(1) and sections 562(1) to (5) of the Companies Act 2006 shall not apply to the Company.

## **TRANSFER OF SHARES**

### **9 Permitted transfers**

#### **9.1 Transfers to family members and family trusts**

- 9.1.1 Subject to Articles 9.1.2 to 9.1.4, any (i) Member who is an individual or (ii) any individual on behalf of whom the legal title of Shares is held by a Member may at any time transfer up to 50 per cent in aggregate of his interest in Shares to a person shown to the reasonable satisfaction of the Board (with the approval of the Investor Director(s)) to be:
  - (i) a Family Member of his; or
  - (ii) trustees to be held under a Family Trust for that Member or any of his Family Members.
- 9.1.2 Subject to Article 9.1.4, no interest in Shares shall be transferred under Article 9.1.1 by any person who previously acquired those Shares by way of transfer under Article 9.1.1 other than to the original Member.
- 9.1.3 No transfer of an interest in Shares shall be made by a Member under Article 9.1.1 unless the voting rights relating to the Shares are retained by the original member and the provisions of Articles 9 to 15 shall continue to apply to and be enforceable against the transferee and in relation to a transfer to a Family Trust, the Investor(s) being satisfied in relation to the jurisdiction and terms of such Family Trust.
- 9.1.4 Where Shares are held by trustees under a Family Trust:
  - (i) on a change of trustees, to the new trustees of that Family Trust;

- (ii) to a person (other than a charity) who has an immediate beneficial interest under the Family Trust; or
- (iii) to another Family Trust which has the same member as settlor.

## 9.2 Transfer by EBT

Any Member who is the trustee of an EBT may at any time transfer any Shares which it holds in that capacity to:

- 9.2.1 the new or remaining trustee(s) of the EBT on any change of trustee(s); and
- 9.2.2 any beneficiary of the EBT, with Investor Consent.

## 9.3 Transfers within groups of companies

A corporate member may at any time transfer Shares to another member of its Wholly-owned Group.

## 9.4 Transfers by the Investor(s)

Any Shares held by the Investor(s) may be transferred to:

- 9.4.1 the beneficial owner or owners in respect of which the Investor(s) is a nominee or custodian or any other nominee or custodian for such beneficial owner or owners; or
- 9.4.2 to another investment fund which is managed or advised by the same manager or adviser as the Investor(s) or by a manager or adviser which is a Member of the Same Group as the Investors' manager or adviser; or
- 9.4.3 any partner, unitholder, shareholder or other participant in, or operator, manager or custodian of, any Investor which is a Fund (a "**Fund Participant**") (or by any trustee or nominee for any such Fund Participant) of any interest in such Fund to any person who is, or as a result of the transfer becomes, a Fund Participant, shall not, and shall not be deemed to, be a transfer of Shares for any purpose under these Articles;
- 9.4.4 to any unitholder, shareholder, participant, partner (including any person to whom such partner may have assigned its partnership interest or any interest therein) manager or adviser (or an officer or employee, past or present, of such partner, manager or adviser) (each a "**Relevant Participant**"), or any Relevant Participant of any Relevant Participant in or of the Investor(s) or of any investment fund, collective investment agreement or any co-investment scheme in respect of which the Investor(s) or any Associate thereof is a nominee or custodian, or to any manager, administrator or advisor thereof or of any such fund or scheme which otherwise co-invests with the Investor(s);
- 9.4.5 to any custodian, nominee, other person so authorised or any Associate of the Investor(s) or of any of the persons referred to in Articles 9.4.1 to 9.4.3.

For the purposes of this Article "**Associate**" shall mean any corporation or undertaking which in relation to the person concerned is a holding company or parent undertaking or a Subsidiary or Subsidiary of any such holding company or undertaking or any

partnership which is a Subsidiary undertaking of the person concerned or of any such holding company.

## 9.5 Transfers amongst Members

9.5.1 Any Member holding Shares as a result of a transfer made after the Investment Date by a person in relation to whom such Shareholder was a permitted transferee under the provisions of this Article 9 may at any time transfer any Share to the person who originally transferred such Shares (or to any other permitted transferee of such original transferor).

9.5.2 Any Member may, with Investor Consent, transfer any Shares to any other Member, any employee, director or consultant of any Group Company or any trustee of an EBT, provided always that the Investors shall not be entitled to acquire M Shares.

## 9.6 Transfers of Reserved Shares

A transfer of Reserved Shares (whether by way of transfer of such Reserved Shares or by grant of options over such Reserved Shares) may be made to a director or employee of the Group (other than an Investor Director) with Investor Consent.

## 9.7 Transfers with consent

Notwithstanding any other provisions of this Article 9, a Member may transfer Shares to any person at any time with the prior written consent of Directors (with Investor Consent) without any price or other restriction and any such transfer shall be registered by the Directors.

## 10 Fair Value

10.1 In the event that it is necessary to establish the Fair Value of any Shares which is the subject of a Deemed Transfer Notice, such Fair Value shall be agreed between the Directors (with Investor Consent) and the Vendor or, in default of agreement within 10 Business Days of the deemed date of service of the Deemed Transfer Notice on the application of either party to the Valuers. The Valuers shall act as experts and not as arbitrators and their determination shall be final and binding. The costs of the Valuers shall be payable by the Company unless the Board (with Investor Consent) has offered a price for the Shares which has not been accepted by the Vendor and the Fair Value is determined to be lower than, equal to, or less than 10% higher than that price, in which case, the costs of the Valuers shall be borne by the Vendor.

10.2 The Fair Value shall be determined by valuing the share capital of the Company as a whole:

10.2.1 assuming, if the Company is then carrying on business as a going concern, that it will continue to do so;

10.2.2 assuming that the entire issued share capital of the Company is being sold as between willing buyer and willing seller by arm's length private treaty for cash payable in full on completion;

10.2.3 taking account of any indebtedness of the Group;

- 10.2.4 taking account of any bona fide offer for the Company received from an unconnected third party within six months of the Deemed Transfer Notice being deemed to have been served; and
  - 10.2.5 recognising that, as the Company is a private limited company, in any other circumstances the Shares are not freely marketable.
- 10.3 Having valued the share capital of the Company as a whole, the Fair Value of the Shares concerned shall be determined by allocating that value between the Shares in the order of priority that would be applicable on a return of capital under Article 4 and also:
- 10.3.1 taking account of any Shares which may be allotted pursuant to options which have been issued by the Company and which are still outstanding;
  - 10.3.2 taking into account whether, in the case of M Shares, they are fully Vested or partly Vested pursuant to article 7; and
  - 10.3.3 without having regard to whether the Shares constitute a majority or minority or to the fact that their transferability is restricted by these Articles.

## **11 Compulsory Transfers**

### **11.1 Transfer if trust ceases to be a Family Trust**

If any trust whose trustees hold Shares in the capital of the Company ceases to be a Family Trust or there cease to be any beneficiaries of the Family Trust other than a charity or charities, then the trustees shall without delay notify the Company that such event has occurred and if the trustees have not, within 14 days of receiving a request from the directors to do so, transferred the Shares back to the settlor of that Family Trust, they shall be deemed to have served the Company with a Deemed Transfer Notice in respect of all such Shares on the date on which the trust ceased to be a Family Trust or the date there ceased to be any beneficiaries other than a charity or charities (as appropriate) and such Shares may not otherwise be transferred.

### **11.2 Transfer if shares cease to be held by a Family Member**

If a Family Member holding Shares transferred to him under Article 9.1.1 ceases to be a Family Member of the original member who held them, the Family Member then holding the Shares shall without delay notify the Company that this event has occurred and if the Family Member has not, within 10 Business Days of ceasing to be a Family Member of the original member, transferred the Shares back to the original member, they shall be deemed to have served the Company with a Deemed Transfer Notice in respect of all such Shares as at the date on which he ceased to be a Family Member and such Shares may not otherwise be transferred.

### **11.3 Transfer on change of control of corporate member**

- 11.3.1 If a corporate member (other than an Investor) holding Shares transferred to it under Article 9.3 ceases to be a member of the same Wholly-owned Group as the original corporate member who held them, the corporate member then holding those Shares shall without delay notify the Company that this event has occurred and if the corporate member has not, within 10 Business Days of ceasing to be a member of the same Wholly-owned Group as the original corporate member, transferred the Shares back to the

original member, they shall be deemed to have served the Company with a Deemed Transfer Notice in respect of all such Shares as at the date on which it ceased to be a member of the relevant Wholly-owned Group and such Shares may not otherwise be transferred.

- 11.3.2 If there is a change in the Controller (or, if more than one, any of them) of a corporate member other than an Investor, or any holding company of a corporate member other than an Investor, then that member shall notify the Company that such event has occurred and shall be deemed to have served the Company with a Deemed Transfer Notice in respect of all Shares then held by it as at the date on which the change in Controller occurred and such Shares may not otherwise be transferred save that where corporate member acquired the Shares as a Permitted Transferee of the original member, it shall first be permitted to transfer those Shares back to the original member or any of such original member's Permitted Transferees before it is deemed to have served a Deemed Transfer Notice.

#### 11.4 Transfer on death or bankruptcy of member

A person entitled to a Share or Shares in consequence of the death of a member (save where such Member becomes a Leaver) or the bankruptcy of a Member:

- 11.4.1 shall be deemed to have served the Company with a Deemed Transfer Notice in respect of all such Share(s) on the date of death or bankruptcy (as appropriate); and

- 11.4.2 shall be bound by any notice given to the Member in respect of the Shares.

#### 11.5 Transfer on insolvency of corporate member

If a corporate member (other than an Investor), either suffers or resolves for the appointment of a liquidator, administrator or administrative or other receiver over it or any material part of its assets or enters into an arrangement with its creditors, the relevant Member shall be deemed to have given a Deemed Transfer Notice in respect of all the Shares held by it as at the date of such liquidation, administration, administrative or other receivership or arrangement.

#### 11.6 Sale Price

In the case of a Deemed Transfer Notice served pursuant to this article 11, the Sale Price shall, unless the Board (with Investor Consent) resolves otherwise:

- 11.6.1 in respect of a Deemed Transfer Notice deemed served as a consequence of the death of a member, be the Fair Value of the Shares to which such Deemed Transfer Notice relates; or

- 11.6.2 in all other cases, be the nominal value of the Shares to which such Deemed Transfer Notice relates.

#### 11.7 Effect on share rights

- 11.7.1 Unless Investor Consent to the contrary is given, the provisions of this Article 11.7 apply:



- (i) from the date of the Deemed Transfer Notice to any shares which become subject to a Deemed Transfer Notice served under the provisions of this Article 11; and
- (ii) from the date of issue to any shares issued to the proposed transferor under a Deemed Transfer Notice served under the provisions of this Article 11 where such shares are issued after the date of such Deemed Transfer Notice (whether by virtue of the exercise of any right or option granted or arising by virtue of the holding of the shares or otherwise);

11.7.2 Any shares to which this Article 11.7 applies shall cease to confer the right to be entitled to receive notice of or to attend or vote at any general meeting or on any written resolution of the Company or at any meeting or on any written resolution of the holders of any class of shares in the capital of the Company and such shares shall not be counted in determining the total number of votes which may be cast at any such meeting or required for the purposes of a written resolution of any members or class of members or any consent under these Articles or otherwise. Such rights shall be restored immediately upon a Sale, a Listing or the Company registering a transfer of the relevant shares pursuant to these Articles.

## **12 Leavers**

12.1 The provisions of this Article shall apply to any Leaver and any Leaver's Shares.

12.2 Upon a person becoming a Leaver:

12.2.1 unless the Board (with Investor Consent) otherwise resolves, any Deemed Transfer Notice previously issued or deemed issued in relation to the Leaver's Shares shall immediately be cancelled (unless all the Shares subject to it have already been sold) and no further Deemed Transfer Notice shall be issued or deemed to be issued in respect of the Leaver's Shares (except under Article 12.2.2 below); and

12.2.2 unless the Board (with Investor Consent) otherwise resolves and subject to Article 12.6, the Leaver shall be deemed to issue a Deemed Transfer Notice on the relevant Termination Date in respect of the legal and/or beneficial title (as determined by the Board, with Investor Consent):

- (i) in the case of a Bad Leaver, in all the Leaver's Shares that are Equity Shares and Vested and un-Vested M Shares; and
- (ii) in the case of a Good Leaver:
  - (A) in all the Leaver's Shares that are un-Vested M Shares;
  - (B) if the Leaver has, prior to or in the period of 5 Business Days commencing on their Termination Date (or such later date as the Board, acting with Investor Consent, may agree), , provided written notice to the Company that it wishes for the same to be subject to and included within such Deemed Transfer Notice, in all of the Leaver's Shares that are Vested M Shares and in all of the Leaver's B Shares,

(the “**Relevant Shares**”);

- 12.2.3 the right to receive offers pursuant to Article 8 shall be suspended; and
  - 12.2.4 unless the Board (with Investor Consent) shall have passed a resolution referred to in Article 12.2.2 above, none of the relevant Leaver's Shares shall, unless and until transferred in accordance with this Article 12 and Article 15.8 entitle the transferor of such Shares to vote on written resolutions of the Company or receive notice of, attend or vote at any general meeting of the Company or meeting of the holders of Shares of the same class and such Shares shall not be counted in determining the total number of votes which may be cast at any such meeting or for the purposes of a written resolution of any Members or class of Members provided that all Shares so disenfranchised shall on a transfer in accordance with this Article be re-enfranchised.
- 12.3 In respect of a Deemed Transfer Notice under Article 12.2.2 above, the Sale Price for the Relevant Shares shall be determined as follows:
- 12.3.1 if the Leaver is a Good Leaver, the Sale Price of the Relevant Shares shall be the Fair Value of such Relevant Shares; and
  - 12.3.2 if the Leaver is a Bad Leaver, the Sale Price of the Relevant Shares shall be:
    - (i) in respect of such Relevant Shares that are B Shares Fair Value, provided that:
      - (A) where the acquirer of such B Shares is the Company it shall, be entitled to satisfy the Sale Price by way of the issue of loan notes of an equivalent value on which the Company shall pay an interest rate of 6% per annum on the amount outstanding and with such loan notes being repayable in full on Exit; and/or
      - (B) any acquirer of such B Shares may elect to defer the payment of the Sale Price over a period not exceeding 3 years provided that the acquirer shall, in respect of any such deferred payment, pay to the Leaver an interest rate of 6% per annum on the outstanding amount deferred; and
    - (ii) in respect of such Relevant Shares that are M Shares (Vested or un-Vested), the Issue Price,
- provided always that if the Leaver is both a Good Leaver and a Bad Leaver, he shall be a Bad Leaver.
- 12.4 The Fair Value of any Relevant Shares shall be calculated as at the Leaving Date. In any particular case, the Board (with Investor Consent) may agree with the transferor some other price other than the Fair Value or the Issue Price.
- 12.5 If any Shares held by a Leaver have not been transferred in accordance with this Article 12 and Article 15.8 within six months of the Termination Date the Leaver shall be entitled to retain such Shares until an Exit, subject always to the provisions of Article 12.2.4.

- 12.6 Upon an Employee Beneficiary becoming a Leaver the Board (acting with Investor Consent) shall resolve whether, in relation to Shares held by a nominee on behalf of such Employee Beneficiary, the nominee shall be deemed to issue a Deemed Transfer Notice in respect of the title to the Shares held by such nominee, and the definition of Leaver and Leaver's Shares shall be interpreted accordingly to give effect to such resolution.

### **13 Tag Along Rights**

- 13.1 Except as permitted by Article 9 or required by Articles 11 or 12, the provisions of this Article 13 shall apply if a proposed transfer of shares to be made by an Investor ("**Selling Shareholder**"), whether made as one or as a series of related transactions, would, if completed, result in any person together with any person Acting in Concert with them (the "**Third Party Purchaser**") acquiring a Controlling Interest (the "**Proposed Transfer**").
- 13.2 In any sale in which the terms of this Article 13 applies the Third Party Purchaser must be a bona fide arms' length purchaser.
- 13.3 Before making the Proposed Transfer, the Selling Shareholder shall procure that the Third Party Purchaser makes an offer (the "**Offer**") to the other shareholders to acquire the same proportion of Equity Shares and M Shares that the other shareholders hold as the Selling Shareholder wishes to transfer for consideration per share that is at least equal to the highest price per Equity Share offered or paid by the Third Party Purchaser in the Proposed Transfer, provided that:
- 13.3.1 the total consideration paid by the Third Party Purchaser in respect of the Proposed Transfer is distributed to the Selling Shareholder(s) and the Accepting Shareholder(s) (as defined in Article 13.6 below) in accordance with the provisions of Article 4.1; and
- 13.3.2 the form of consideration (including time of payment and form of consideration) to which an Accepting Shareholder pursuant to an Offer shall be no less favourable than those offered to the Selling Shareholder.
- 13.4 The Offer must be given by written notice (a "**Tag Offer Notice**") at least 10 Business Days prior to the proposed sale date. The Tag Offer Notice must set out, to the extent not described in any accompanying documents, the identity of the Third Party Purchaser, the purchase price and other terms and conditions of payment, the proposed sale date and the number of Equity Shares proposed to be purchased by the Third Party Purchaser.
- 13.5 If any other holder of Equity Shares is not given the rights accorded to him by this Article, the Selling Shareholder(s) will not be entitled to complete the Proposed Transfer and the directors will not register any transfer effected in accordance with the Proposed Transfer.
- 13.6 If the Offer is accepted by any shareholder(s) ("**Accepting Shareholder**") in writing within 5 Business Days of receipt of the Tag Offer Notice, the completion of the Proposed Transfer shall be conditional on completion of the purchase of all the Equity Shares subject to the Offer held by Accepting Shareholders
- 13.7 Any transfer of shares pursuant to this Article shall not be subject to the other restrictions on transfer contained in these Articles.

## 14 Drag Along Rights

- 14.1 If the Investor(s) (the "**Majority Seller**") wishes to transfer such number of Equity Shares as would lead to it holding less than 50.1% of the issued Equity Shares (the "**Majority Sellers' Shares**"), to a Third Party Purchaser or purchasers Acting in Concert on arms' length terms, the Majority Sellers shall have the option (the "**Exit Option**") to require:

14.1.1 all the other shareholders; and

14.1.2 any holders of any options or other rights to acquire or convert an interest into shares (which is fully and unconditionally exercisable) to exercise them,

(together the "**Called Shareholders**") to sell and transfer the same proportion of their interests in Equity Shares and/or M Shares (as appropriate) as the proportion of the Majority Seller wishes to sell (the "**Called Shares**") to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with the provisions of Articles 14.2 to 14.8 below.

- 14.2 The Majority Seller may exercise the Exit Option by giving a written notice to that effect (an "**Exit Notice**") to the Called Shareholders at any time before the transfer of the Majority Sellers' Shares to the Third Party Purchaser. An Exit Notice shall specify that the Called Shareholders are required to transfer all their Called Shares pursuant to this Article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article) and the proposed date of transfer which shall be at least 5 Business Days after the date on which the Exit Notice is served.

- 14.3 Exit Notices shall be irrevocable but shall lapse if for any reason there is not a sale of the Majority Sellers' Shares by the Majority Seller to the Third Party Purchaser within 30 Business Days after the date of service of the Exit Notice. The Majority Seller shall be entitled to serve further Exit Notices following the lapse of any particular Exit Notice.

- 14.4 The Called Shares shall be acquired on the same terms and conditions (including time of payment and form of consideration for which the Majority Seller shall have agreed to sell the Majority Seller's Shares) provided that:

14.4.1 the purchase price attributable to each Called Share that is an Equity Share for the purpose of calculating the aggregate consideration payable in respect of all of the Called Shares and all of the Majority Seller's Shares shall be an amount at least equal to the price per share offered by the Third Party Purchaser for the Majority Seller's Shares;

14.4.2 the aggregate consideration shall be distributed in accordance with the provisions of Article 4.1; and

14.4.3 the Investor(s) and its permitted transferees will not be required to provide the Third Party Purchaser with any representations, warranties or indemnities (save as to title and capacity) or give any restrictive covenants or undertakings.

- 14.5 Completion of the sale of the Called Shares shall take place on the same date as the date proposed for completion of the sale of the Majority Seller's Shares unless:

14.5.1 all of the Called Shareholders and the Majority Seller agree otherwise; or

- 14.5.2 that date is less than five Business Days after the Exit Notice where it shall be deferred until the fifth Business Day after the Exit Notice.
- 14.6 On:
- 14.6.1 or before the date of completion of the sale of the Called Shares, the Called Shareholders shall execute and deliver stock transfer forms for the Called Shares, together with the relevant share certificates (or a suitable indemnity for any lost share certificates) to the Company;
- 14.6.2 the date of completion, the Company shall pay the Called Shareholders, on behalf of the Third Party Purchaser, the amounts due pursuant to Article 14.4 to the extent that the Third Party Purchaser has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Third Party Purchaser. The Company shall hold the amounts due to the Called Shareholders in trust for the Called Shareholders without any obligation to pay interest. To the extent that the Third Party Purchaser has not, on the date of completion, put the Company in funds to pay the purchase price due in respect of the Called Shares, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificates (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this Article in respect of their shares.
- 14.7 If any Called Shareholder fails to complete the sale of his Called Shares in accordance with this Article 14, he shall be deemed to have irrevocably appointed any director nominated for the purpose by the Majority Seller to be his agent to execute all necessary transfer(s) and other documents relating to the rights attached to his Called Shares (and, if relevant, any indemnity for missing share certificate(s)) on his behalf and, against receipt by the Company of the purchase monies or any other consideration payable for the Called Shares (held on trust for the relevant Called Shareholder), to deliver such transfer(s), documents and indemnities to the Third Party Purchaser (or as the Third Party Purchaser may direct). The directors shall (subject only to stamping of the transfers, if required) immediately register the Third Party Purchaser (or as he may direct) as the holder of the relevant Called Shares. After the Third Party Purchaser (or his nominee) has been registered as the holder of the relevant Called Shares, the validity of such proceedings shall not be questioned by any person. It shall be no impediment to registration of shares under this Article 14.7 that no share certificate has been produced. On surrender of the Called Shareholder's share certificate (or a suitable indemnity for any lost share certificate) to the Company, the Called Shareholder will be entitled to the purchase monies or other consideration due to him.
- 14.8 Upon any person, following the issue of an Exit Notice, exercising a pre-existing option to acquire shares, whether or not such person is registered as a member of the Company, an Exit Notice shall be deemed to have been served upon such person on the same terms as the previous Exit Notice who shall thereupon be bound to sell and transfer all such shares acquired by him to the Third Party Purchaser (or as the Third Party Purchaser may direct) and the provisions of this Article 14 shall apply mutatis mutandis to such person save that completion of the sale of such shares shall take place immediately upon the Exit Notice being deemed served on such person where completion of the transfer of the Called Shares has already taken place.

## **15     General transfer provisions**

- 15.1 Any person who holds, or becomes entitled to, any Share shall not effect a transfer except in accordance with the provisions of Articles 9, 11, 12, 13, 14 or 15.
- 15.2 Notwithstanding any other provision in these Articles, the Board shall refuse to register the transfer of any Shares:
- 15.2.1 being Shares which are not fully paid, to a person of whom they do not approve;
  - 15.2.2 on which the Company has a lien;
  - 15.2.3 to a person who is (or whom the Board reasonably believes to be) under 18 years of age or a person who does not have (or whom the Board reasonably believes does not have) the legal capacity freely to dispose of any Shares without let, hindrance or court order;
  - 15.2.4 purported to be made otherwise than in accordance with or as permitted by these Articles;
  - 15.2.5 unless the proposed transferee has entered into a Deed of Adherence (other than on a Sale or if Investor Consent is given to the contrary);
  - 15.2.6 to any person who, in the opinion of the Investor Director(s), or, if none is/are appointed, in the opinion of an Investor, is carrying on business directly or indirectly in competition with the Company or any Group Company, except this restriction shall not apply to any transfer of Shares:
    - (i) pursuant to Articles 13 (Tag Along Rights) and 14 (Drag Along Rights); or
    - (ii) to the Investor(s).
- 15.3 The transferor of any Shares shall remain the holder of the Shares concerned until the name of the transferee is entered into the Register of Members in respect thereof.
- 15.4 For the purpose of these Articles the following shall be deemed (but without limitation) to be a transfer by a Member of Shares:
- 15.4.1 any direction (by way of renunciation or otherwise) by a Member entitled to an allotment or transfer of Shares that a Share be allotted or issued or transferred to some person other than himself; and
  - 15.4.2 any sale or any other disposition of any legal, equitable or beneficial interest in a Share or the granting of any mortgage or charge or any other security interest over any Share and whether or not for consideration or otherwise and whether or not effected by an instrument in writing.
- 15.5 Notwithstanding Article 15.4.2, any transfer by a Fund Participant (or by any trustee or nominee for any such Fund Participant) of any interest in a Fund to any person who is, or as a result of the transfer becomes, a Fund Participant, shall not, and shall not be deemed to, be a transfer of Shares for any purpose under these Articles.

15.6 For the purpose of ensuring that:

- 15.6.1 a transfer of Shares is duly authorised hereunder;
- 15.6.2 no circumstances have arisen whereby a Transfer Notice is required to be given hereunder; or
- 15.6.3 no circumstances have arisen whereby the tag along provisions are required to be or ought to have been triggered pursuant to Article 13;

the Board and/or the Investor Director(s) may from time to time require any Member or the legal personal representatives of any deceased Member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Board and/or the Investor Director(s) may think fit regarding any matter which they deem relevant to such purpose.

15.7 Failing such information or evidence being furnished to the reasonable satisfaction of the Board within 10 Business Days of such request or if such evidence or information discloses that the transfer was made in breach of these Articles (including that a Transfer Notice ought to have been given in respect of any Shares):

- 15.7.1 the Board (unless otherwise agreed by the Investor Director(s)) shall refuse to register the transfer in question;
- 15.7.2 the relevant shares shall cease to confer upon the holder of them (or any proxy) any rights:
  - (i) to vote on a show of hands or poll at a general meeting of the Company or at any meeting of the class of shares in question or on any written resolution of the Company or the class of shares in question (provided that such rights shall not cease if as a result of such cessation the Company shall become a Subsidiary of an Investor); or
  - (ii) to receive dividends or other distributions otherwise attaching to the shares or to receive any further shares issued in respect of those shares.

15.8 In all circumstances in which a Deemed Transfer Notice is deemed served on the Company:

- 15.8.1 within 10 Business Days after the last to occur of:
  - (i) the receipt by the Company of a Deemed Transfer Notice; and
  - (ii) the determination of the Sale Price,

the Board (subject to Investor Consent) shall direct the Company (in its capacity as agent for the Vendor) immediately to offer at the Sale Price the number of Shares as are subject to the Deemed Transfer Notice ("**Sale Shares**"):

- (iii) to the Company pursuant to Parts 17 and 18 of the CA 2006;

- (iv) to any person who will hold the Sale Shares for the benefit of existing or future employees, including (without limitation) the trustees of an EBT, to hold the Sale Shares upon the terms of a discretionary trust for the benefit of the class of beneficiaries which includes employees or directors of any Group Company;
- 15.8.2 if any offeree of the Sale Shares pursuant to Article 15.8.1 applies for any of them within 10 Business Days after the date of the offer, the Company will allocate to such offeree the number of Sale Shares applied for on the later of:
  - (i) the 15<sup>th</sup> Business Day following receipt of the Transfer Notice; and
  - (ii) the date on which the Sale Price is determined;
- 15.8.3 to the extent that any Sale Shares that are B Shares are not applied for pursuant to article 15.8.2 within the 10 Business Day time period specified therein, the Company (as agent for the Vendor) shall offer the Sale Shares to the Investor(s) (on a pro-rata basis or as they may otherwise direct);
- 15.8.4 if the Investor(s) applies for any Sale Shares pursuant to Article 15.8.3 within 10 Business Days after the date of the offer, the Company will allocate to the Investor(s) such number of Sale Shares applied for on the later of:
  - (i) the 15<sup>th</sup> Business Day following receipt of the Transfer Notice; and
  - (ii) the date on which the Sale Price is determined;
- 15.8.5 to the extent that any Sale Shares that are B Shares are not applied for pursuant to article 15.8.2 within the 10 Business Day time period specified therein, the Board shall determine whether the Vendor shall retain the Sale Shares or whether the Vendor shall transfer the Sale Shares to another party on such terms as the Board (with Investor Consent) may determine.
- 15.9 The Board shall, within 5 Business Days after whichever is the first to occur of (i) offerors applying for all of the Sale Shares offered pursuant to Article 15.8 or (ii) the Board having made a determination pursuant to 15.8.5, give notice in writing (a “**Sale Notice**”) to the Vendor and to each person to whom Sale Shares have been allocated (each a “**Purchaser**”) specifying the name and address of each Purchaser, the number of Sale Shares allocated to him, the aggregate price payable for them, and the time for completion of each sale and purchase.
- 15.10 Completion of a sale and purchase of Sale Shares pursuant to a Sale Notice shall take place at the registered office of the Company at the time specified in the Sale Notice (being not less than five Business Days nor more than 20 Business Days after the date on which the Sale Notice is delivered, unless agreed otherwise in relation to any sale and purchase by both the Vendor and the Purchaser concerned) when the Vendor shall, upon payment to him by a Purchaser of the Sale Price in respect of the Sale Shares allocated to that Purchaser, transfer those Sale Shares and deliver the relative share certificates to that Purchaser.
- 15.11 Unless expressly provided otherwise in these Articles any Deemed Transfer Notice shall be treated as having specified that:



- 15.11.1 it does not contain a Minimum Transfer Conditions; and
  - 15.11.2 the Seller wishes to transfer all the Shares held by him (including any Shares acquired after the date of the Deemed Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the Deemed Transfer Notice).
- 15.12 If a Vendor fails to transfer any Sale Shares that are subject to a Deemed Transfer Notice, the Board may authorise any person (who shall be deemed to be the attorney of the Vendor for the purpose) to execute the necessary transfer of such Sale Shares and deliver it on the Vendor's behalf. The Company may receive the purchase money for the Sale Shares from the purchaser and shall, upon receipt of the duly stamped transfer, register the purchaser as the holder of those Sale Shares. The Company shall hold the purchase money in a separate bank account on trust for the Vendor but shall not be bound to earn or pay interest on any money so held. The Company's receipt for the purchase money shall be a good discharge to the Purchaser (who shall not be concerned to see to the application of it). After the name of the purchaser has been entered in the Register of Members in purported exercise of the power conferred by this Article 15.12, the validity of that exercise shall not be questioned by any person.

### **15.13 GENERAL PROVISIONS**

#### **16 General meetings**

- 16.1 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. One person, being a Member present in person or by proxy or a duly authorised representative of a corporation shall be a quorum at any general meeting. Notwithstanding the foregoing and so long as there are any A Shares in issue, there shall be no quorum unless there shall be present in person or by proxy or by duly authorised representative of the Investors. If no such quorum is so present then the meeting shall stand adjourned for a period of not less than five Business Days to such time and place as the Board shall agree and notify to the Members. If no such Member is so present at the adjourned meeting then subject to the foregoing provisions of this Article the Members then present in person or by proxy or by duly authorised representatives shall constitute a quorum.
- 16.2 With respect to any resolution in writing, in the case of a corporation which holds any Shares, the signature of any director or the company secretary thereof shall be deemed to be a signature of the corporation which holds Shares.
- 16.3 The instrument appointing the proxy shall be effective if such appointment is brought to the attention of the chairman of the meeting at any time prior to the taking of any vote (whether on a show of hands or on a poll) (including after the commencement of the meeting).
- 16.4 The chairman shall not be entitled to exercise any second or casting vote.
- 16.5 A Director shall not be required to hold any share qualification, but nevertheless shall be entitled to attend and speak at any general meeting of the Company and at any separate general meeting of the holders of any class of shares in the capital of the Company.

**17 Number of directors**

The minimum number of directors (other than any Investor Director(s)) shall be one. The number of Directors shall not be subject to any maximum.

**18 Investor Director and Chairman**

- 18.1 The Investor(s) shall from time to time have the right, for so long as it holds Equity Shares, to appoint and maintain in office one or more persons to be an Investor Director and at any time remove any such Investor Director and appoint a replacement such that there shall always be a majority of Investor Directors on the Board.
- 18.2 Any appointment or removal of an Investor Director shall be in writing served on the Company signed by an Investor and shall take effect at the time it is served on the Company or produced to a meeting of the Board, whichever is earlier. Any such appointment or removal by a corporation may be signed on its behalf by its duly authorised representative.
- 18.3 Notice of meetings of the Board shall be served on any Investor Director who is absent from the United Kingdom at the address for service of notice on the Investor(s) under the Investment Agreement.
- 18.4 An Investor Director shall be entitled to be appointed to any committee of the Directors established from time to time such that there shall always be a majority of Investor Directors on such committee.
- 18.5 Upon written request by the Investor(s) the Company shall procure that such appointed Investor Director is forthwith appointed as a director of any other Group Company.
- 18.6 Any expenses reasonably and properly incurred by an Investor Director or observer shall be payable by the Company.
- 18.7 Where any decision is to be made by any Group Company in relation to the exercise, enforcement, variation or waiver of its rights under the Acquisition Agreement and/or any documents referred to in or entered into pursuant to the Acquisition Agreement or against any Member holding B Shares or any director or person connected with any such Member or director, any such decision shall be within the exclusive power of the Investor Director(s) (to the exclusion of the other Directors but after consultation with a majority thereof) who shall have (without limitation) exclusive authority in relation to such exercise, enforcement, variation or waiver and the conduct of any proceedings of whatever nature arising in connection with any such rights.
- 18.8 The Investor(s) may at any time and on more than one occasion appoint any Director to be the chairman of the Board and at any time and on more than one occasion remove from the office of chairman a person so appointed. Article 18.2 shall apply to any such appointment or removal.

**19 Appointment and Removal of Directors**

- 19.1 The Board may appoint any person who is willing to act as a Director, either to fill a vacancy or as an additional Director.
- 19.2 The office of Director (other than an Investor Director) shall be vacated if he:

- 19.2.1 is convicted of a criminal offence (other than a minor motoring offence) and a majority of the other Directors resolve that he cease to be a director;
- 19.2.2 the Investor(s) resolves that he cease to be a Director; and
- 19.2.3 in the case of an executive director only, he becomes a Leaver.

## **20 Alternate Directors**

- 20.1 Any Director may appoint as an alternate any other director, or:
  - 20.1.1 in the case of an Investor Director, any other person; and
  - 20.1.2 in the case of any Director other than the Investor Director, any other person approved by resolution of the directors;

to exercise that Directors powers and carry out that directors responsibilities in relation to the taking of decisions by the directors in the absence of the alternate's appointor.
- 20.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor and must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that he is willing to act as the alternate of the director giving the notice.
- 20.3 An alternate director has the same rights in relation to any directors' meeting or directors' written resolutions as the alternate's appointor.
- 20.4 An alternate director's appointment as an alternate terminates:
  - 20.4.1 when the alternate's appointor revokes the appointment by written notice to the Company on the date specified in that notice;
  - 20.4.2 on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
  - 20.4.3 on the death of the alternate's appointor; or
  - 20.4.4 where the alternate's appointor's appointment as a director terminates.
- 20.5 A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum.
- 20.6 If an alternate director is himself a director or attends any meeting as an alternate director for more than one director, his voting rights shall be cumulative but he shall only be counted once in deciding whether a quorum is present.

## **21 Proceedings of Directors**

- 21.1 The quorum for the transaction of business of the Board shall be two Directors, one of whom shall be an Investor Director provided that one is appointed unless the Investor Director(s) has/have previously agreed otherwise in writing expressly for that purpose.
- 21.2 In the event that, at any quorate meeting, the Investor Directors present are fewer or equal to the number of directors present who are not Investor Directors, then the Investor Directors present at such board meeting shall, collectively be entitled to

exercise such number of votes (attributed between themselves as the Investor Directors may determine) as is one vote more than the total number of votes as can be exercised by the directors present at the meeting who are not Investor Directors.

21.3 Any Director or his alternate may validly participate in a meeting of the Board by conference telephone or other form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group which is larger than any other group, where the chairman of the meeting then is.

21.4 Save with Investor Consent:

21.4.1 the Board shall not delegate any of its powers to a committee; and

21.4.2 meetings of the Board shall not be held outside the United Kingdom.

21.5 The Chairman shall not have a second or casting vote at a meeting of the Board.

## **22 Director's interests**

### **22.1 Directors' conflicts of interest – Board approval for Situational Conflicts**

22.1.1 If a situation arises or exists in which a Director has or could have a Situational Conflict, without prejudice to the provisions of Articles 22.2 to 22.5.2, the Director concerned, or any other Director, may propose to the Board that such Situational Conflicts be authorised, such proposal to be made in writing and delivered to the other Directors or made orally at a meeting of the Board, in each case setting out particulars of the Situational Conflict in question. Subject to the Companies Acts, the Directors may authorise such Situational Conflict and the continuing performance by the relevant Director of his duties as a Director of the Company on such terms as they may think fit.

22.1.2 The relevant Director shall not continue in the quorum at the relevant meeting of the Directors to authorise such Situational Conflict nor be entitled to vote on the resolution authorising it. If the relevant Director is the sole Investor Director, for the sole purpose of any part of the meeting of the Directors at which a resolution authorising the relevant Situational Conflict pursuant to section 175(4)(b) of the Companies Act 2006 is to be considered, the quorum requirement for such part of the meeting shall be any two Directors (which shall, unless otherwise conflicted, include an different Investor Director (to the extent that one is appointed)), neither of whom have any interest for such Investor Director to be present during such part of the meeting for the quorum requirement to be met.

### **22.2 Directors' Situational Conflicts – pre-approval for all Directors**

Subject to compliance by him with his duties as a Director under Part X of the Companies Act 2006 (other than the duty in section 175(1) of that Act which is the

subject of this Article 22.2), a Director (including the chairman of the Company (if any) and any other non-executive Director) may, at any time:

22.2.1 be an officer of, employed by or hold Shares or other securities (whether direct or indirectly) in, the Company; or

22.2.2 be a director or other officer of, employed by or hold shares or other securities (whether directly or indirectly) in, or otherwise interested, whether directly or indirectly, in any other Group Company;

(in either case a “**Group Company Interest**”) and notwithstanding his office or the existence of an actual or potential conflict between any Group Company Interest and the interests of the Company which would fall within the ambit of that section 175(1), the relevant Director;

22.2.3 shall be entitled to attend any meeting or part of a meeting of the Directors or a committee of the Directors at which any matter which may be relevant to the Group Company Interest may be discussed and to vote on any resolution of the Directors or a committee thereof relating to such matter, and any board papers relating to such matter shall be provided to the relevant Director at the same time as the other Directors (save that a Director may not vote on any resolution in respect of matters relating to his employment with the Company or other Group Company);

22.2.4 shall not be obliged to account to the Company for any remuneration or other benefits received by him in consequence of any Group Company Interest; and

22.2.5 shall not be obliged to disclose to the Company or use for the benefit of the Company any confidential information received by him by virtue of his Group Company Interest and otherwise than by virtue of his position as a Director, if to do so would breach any duty of confidentiality to any other Group Company or third party.

## 22.3 Directors' Situational Conflicts – pre-approval for Investor Directors

22.3.1 Subject to compliance by him with his duties as a Director under Part X of the Companies Act 2006 (other than the duty in section 175(1) of that Act to the extent that it is the subject of this Article 22.3.1), an Investor Director may be a director or other officer of, employed by or hold shares or other securities in, or otherwise be interested (as a member, partner or otherwise), whether directly or indirectly, in:

(i) any Investor, Investor Associate or other entity which, directly or indirectly, holds Shares in the Company (a “**Relevant Investor**”) and as such the Investor Director may, on behalf of the Investor, give or withhold any consent or give any direction required of any Investor or Investors pursuant to the terms of any subscription, investment or shareholder's agreement relating to the Company or any similar agreement or document ancillary to such an agreement; or

(ii) any other company in which the Relevant Investor also holds shares or other securities or is otherwise interested, whether directly or indirectly;

(in either case an “**Investor Director Interest**”), and notwithstanding his office or the existence of an actual or potential conflict between any Investor Director Interest and the interests of the Company which would fall within the ambit of section 175(1) of the Companies Act 2006, the relevant Investor Director

- (iii) shall be entitled to attend any meeting or part of a meeting of the Directors or a committee or the Directors at which any matter which may be relevant to the Investor Director Interest may be discussed and to vote on a resolution of the Directors or a committee thereof relating to such matter, and any board papers relating to such matter shall be provided to the relevant Investor Director at the same time as other Directors;
- (iv) shall not be obliged to account to the Company for any remuneration or other benefits received by him in consequence of any Investor Director Interest;
- (v) shall be entitled to consult freely about the Group and its affairs with, and to disclose, for investment appraisal purposes, Confidential Information to any Investor, Investor Associate or proposed investor in the Group or any other person on whose behalf it is investing in the Group and to the Group's auditors, lenders and proposed lenders (or with and to any of its or their professional advisers);
- (vi) for the purposes of facilitating an Exit, shall be entitled to disclose any Confidential Information to any proposed purchaser, underwriter, sponsor or broker, subject to the relevant Investor Director using all reasonable endeavours to procure that any such recipient is made aware that it is Confidential Information and agrees to treat it accordingly; and
- (vii) shall not be obliged to disclosure to the Company or use for the benefit of the Company any other confidential information received by him by virtue of his Investor Director Interest and otherwise by virtue of his position as a Director.

22.3.2 For the purposes of Article 22.3.1, the expression “**Confidential Information**” shall mean all information (whether oral or recorded in any medium) relating to the Group Company's business, financial or other affairs (including future plans of any Group Company) which is treated by a Group Company as confidential (or is marked or is by its nature confidential).

## 22.4 Directors' Situational Conflicts – disclosure of interests

Without prejudice to Articles 22.2 and 22.3.1, any Director who has a Group Company Interest and any Investor Director who has an Investor Director Interest shall, as soon as reasonable practicable following the relevant Interest arising, disclose to the Board the existence of such Interest and the nature and extent of such Interest so far as the relevant Investor Director or other Director is able at the time the disclosure is made, provided that no such disclosure is required to be made of any matter in respect of which the relevant Investor Director or other Director owes any duty confidentiality to any third party. A disclosure made to the Board under this Article 22.4 may be made

either at a meeting of the Board or by notice in writing to the Company marked for the attention of the Directors.

## 22.5 Directors' Situational Conflicts – shareholder approval

22.5.1 Notwithstanding the provisions of Articles 22.1.1, 22.2 and 22.3.1, the holders of a majority of the issued A Shares from time to time may, at any time, by notice in writing to the Company, authorise, on such terms as they shall think fit and shall specify in the notice:

- (i) any Situational Conflict which has been notified to the Board by any Director under Article 22.1.1;
- (ii) any Situational Conflict which has been notified to the Board by the chairman of the Company (if any) under Article 22.1.1 and which arises by virtue of his appointment or proposed appointment as a director or other officer of, and/or his holding of shares or other securities (whether directly or indirectly) in, any company other than a Group Company (a “**Chairman's Interest**”); or
- (iii) any Group Company Interest or Investor Director Interest which has been disclosed to the Board under Article 22.4;

(whether or not the matter has already been considered under, or deemed to fall within, Article 22.1.1, 22.2 and 22.3.1, as the case may be).

22.5.2 No contract entered into shall be liable to be avoided by virtue of:

- (i) any Director having an interest of the type referred to in Article 22.1.1 where the relevant Situational Conflict has been approved as provided by that Article or which is authorised pursuant to Article 22.5.1;
- (ii) the chairman of the Company (if any) having a Chairman's Interest which has been approved by the Board under Article 22.1.1 or which is authorised pursuant to Article 22.5.1;
- (iii) any Director having a Group Company Interest which falls within Article 22.2 or which is authorised pursuant to Article 22.5.1; or
- (iv) any Investor Director having an Investor Director Interest which falls within Article 22.3.1 or which is authorised pursuant to Article 22.5.1.

## 22.6 Directors' conflicts of interest – Transactional Conflicts

22.6.1 The provisions of Articles 22.1.1 to 22.5.2 shall not apply to Transactional Conflicts but the following provisions of this Article 22.6.1 and Articles 22.6.2 to 22.6.4 shall so apply. Any Director may be interested in an existing or proposed transaction or arrangement with the Company, provided that he complies with the Companies Act 2006 and (if applicable) Articles 22.6.2 and 22.6.3.

22.6.2 Subject to the provisions of the Companies Act 2006, and provided that he has disclosed to the Directors the nature and extent of any material interest of his pursuant to Article 22.6.3, a Director, notwithstanding his office:

- (i) may be party to, or otherwise interested in, any transaction or arrangement with the Company (or any other Group Company) or in which the Company (or any other Group Company) is otherwise interested;
- (ii) may be a director or other officer of, or employed by, or a consultant to, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
- (iii) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

22.6.3 For the purposes of Article 22.6.2:

- (i) a general note given to the Directors that a Director is to be regarded as having an interest in the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified; and
- (ii) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

22.6.4 Without prejudice to the obligation of each Director to declare an interest in accordance with the Companies Act 2006, a Director may vote at a meeting of the Board or of a committee of the Board on any resolution concerning a matter in which he has an interest, whether direct or indirect, which relates to a transaction or arrangement with the Company or in relation to which he has a duty. Having so declared any such interest or duty he may have, the Director shall be counted in the quorum present when any such resolution is under consideration and if he votes on such resolution his vote shall be counted.

## 23 **Observer**

The Investor shall be entitled from time to time to appoint any one person to attend all meetings of the Directors as an observer and the person so appointed ("**Observer**") shall be given (at the same time as the Directors) notice of all meetings of the directors and all agendas, minutes and other papers relating to such meetings. The Observer shall be entitled to attend any and all such meetings and to speak and place items on the agenda for discussion provided that the Observer shall not be entitled in any circumstances to vote and shall not be treated as a Director for any purpose. The Investor(s) may remove any Observer and appoint another person in his or her place.



## **24     Dividends**

The Company shall take all lawful steps to procure that each other Group Company which has profits available for distribution shall from time to time declare and pay such dividends as are necessary to permit lawful and prompt payment by the Company of any dividends on the A Shares and B Shares in accordance with these Articles. Such steps shall include (without limitation) the preparation of interim or initial accounts (complying with sections 838 and 839 of the Companies Act 2006) of each other Group Company by reference to which profits available for distribution might fall to be calculated and procuring that, where necessary, such initial or interim accounts are reported on by the relevant company's auditors and are filed with the Registrar of Companies.

## **25     Notices**

- 25.1 Any notices to be given to the Company pursuant to these Articles shall be sent to the registered office of the Company or presented at a meeting of the Board.
- 25.2 Any notice or other document delivered or left at a registered address otherwise than by post shall be deemed to have been served or delivered on the day it was so delivered or left.

## **26     Indemnity**

- 26.1 Subject to article 26.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

26.1.1 each relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:

- (i) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
- (ii) in relation to the company's (or any associated company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006);

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the company's (or any associated company's) affairs; and

26.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 26.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 26.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

26.3 In this article:

- 26.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- 26.3.2 a “**relevant officer**” means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Companies Act 2006), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

**27 Insurance**

27.1 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.

27.2 In this article:

- 27.2.1 a “**relevant officer**” means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Companies Act 2006), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor);
- 27.2.2 a “**relevant loss**” means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company; and
- 27.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.